

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 09-56866

DAVID LATIMER, and
YVETTE LATIMER,

Chapter 11

Judge Thomas J. Tucker

Debtors.

ORDER REQUIRING DEBTORS TO AMEND DISCLOSURE STATEMENT

On May 21, 2010, Debtors filed a plan and disclosure statement, in a document entitled “Plan of Reorganization and Disclosure Statement of David and Yvette Latimer” (Docket # 90). The Court cannot yet grant preliminary approval of the disclosure statement contained within this document (“Disclosure Statement”). The Court notes the following problems, which Debtors must correct.

First, Article II, Paragraph 2.1.2 of the Plan on page 7 states in relevant part: “The Debtors will continue to operate his [sic] businesses in the ordinary course.” This statement is inconsistent with Section II.C of the Disclosure Statement on page 16, which states that “Debtor [sic] no longer has any ongoing business concerns. Their sole sources of income are from wages earned from employment.” Debtors must correct this inconsistency.

Second, Debtors must state the name of the entity or entities that are being treated under “Group II - Priority Tax Claims” on pages 7-8 of the Plan, and also must state or estimate the amount of each entity’s claim.

Third, Debtors must delete Paragraphs 2.2.2 and 2.2.3 of the Plan on page 8. Priority tax claims are unsecured tax claims. To the extent Debtors believe that there are taxing authorities with valid tax liens on property of the Debtors, Debtors must name each such taxing authority,

state the amount of its claim, and separately classify and treat its claim as a secured claim under Article III of the Plan.

Fourth, Debtors have numbered their classes using roman numerals. However, “Class I” is erroneously labeled “Class 1.” Debtors must correct this.

Fifth, the claims of all secured creditors are currently being treated in the same class (Class I). (*See* Paragraphs 3.1 - 3.5, 3.1.8.) Debtors must separately classify and treat the secured claims of each secured creditor.

Sixth, Debtors must delete Paragraphs 3.1.6 and 3.1.7 of the Plan on page 9. Paragraph 3.1.6 does not apply to the secured claims treated under Class I, and to the extent there are any other secured creditors, they must be named and separately classified and treated under the Plan.

Seventh, Debtors must delete Paragraph 3.4 (Class III) of the Plan on page 10, in its entirety. Debtors are individuals, not an entity, and therefore, this language does not apply.

Eighth, Debtors must move Paragraph 4.2.1 and its subparts A-F on pages 10-11 of the Plan to the section of the Plan which separately classifies and treats the secured claim of Genisys Mortgage. In subpart C of Paragraph 4.2.1, Debtors must change the two references to “Chapter 13” to “Chapter 11.”

Ninth, Debtors state in the last sentence of Section IV.C on page 18 of the Disclosure Statement: “Debtors have not investigated any potential causes of action or Avoidance Actions and cannot make any representation concerning their value.” Debtors must state whether there are any potential claims and avoidance actions and estimate their value.

Tenth, Debtors must make Section IV.D of the Disclosure Statement on page 18 consistent with Paragraphs 2.1.2 and 2.2.1 of the Plan on page 7. Debtors must label this

paragraph “Administrative and Priority Claims.” Debtors must state that the only anticipated administrative claims are the claim of Debtor’s attorney (and then estimate the amount of the claim), and the claim of the United States Trustee for outstanding fees (and estimate the amount of the claim). Debtors must also name each taxing authority that holds a § 507(a)(8) priority claim and estimate the amount of the claim.

Eleventh, Section V.A.1 of the Disclosure Statement on pages 18-19 provides financial summaries for 2 years pre-petition. Debtors must provide financial summaries for 3 years pre-petition.

Twelfth, Section V.A.2 of the Disclosure Statement on page 19 states, in relevant part: “The Debtor has attached as Exhibit ‘B’ summaries of its financial performance during these chapter 11 proceedings.” However, there is no Exhibit B attached. It appears that the financial summaries to which the Debtors refer are in the same paragraph below. If this is the case, Debtors must state this and delete the reference to Exhibit B.

Thirteenth, Debtors must replace the word “two” with “who” in last sentence of the second paragraph under Section VI.A of the Disclosure Statement on page 20.

Fourteenth, Debtors must change the sentence in Section VI.E.2 of the Disclosure Statement on page 21 to state: “Except as provided in the plan and in 11 U.S.C. § 1141(d).”

Fifteenth, Debtors must paginate the Plan and the Disclosure Statement.

Sixteenth, the definition of “Effective Date” in Paragraph 1.2.29 of the Plan on page 5 is unclear. Debtors must correct this.

Seventeenth, at pages 21-22, Debtors must delete Paragraph VI.E.2.a of the Disclosure Statement (regarding a corporation that is reorganizing and continuing business), Paragraph

VI.E.2.b of the Disclosure Statement (regarding a corporation that is liquidating and not continuing in business), and the last sentence of Section VI.E which reads “See Part II-A of this Disclosure Statement to determine which of the above paragraphs applies in this case.”

Accordingly,

IT IS ORDERED that no later than **May 27, 2010**, Debtors must file an amended combined plan and disclosure statement which corrects the above stated problems.

IT IS FURTHER ORDERED that Debtors also must provide to Judge’s chambers, no later than **May 27, 2010**, a redlined version of the amended combined plan and disclosure statement, showing the changes Debtors has made to the “Plan of Reorganization and Disclosure Statement of David and Yvette Latimer” (Docket # 90), filed May 21, 2010. Debtors must submit this redlined document to chambers electronically, through the Court’s order submission program.

Signed on May 24, 2010

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge